

# **Rye City Planning Commission Minutes**

June 19,2001

1

## **PRESENT:**

Michael W. Klemens, Chairman  
Peter Larr, Vice Chairman  
Brian Spillane  
Philip DeCaro  
Joseph P. Cox  
Lawrence H. Lehman  
Doug McKean

## **ABSENT:**

None

## **ALSO PRESENT:**

Christian K. Miller, AICP, City Planner  
Dennis Buckley, Conservation Commission/Advisory Council  
Chantal Detlefs, City Naturalist

Chairman Klemens called the regular meeting to order in the Council Hearing Room of the City Hall and a quorum was present to conduct official business.

## **I. HEARINGS**

### **1. Apawamis Club (Continued)**

Prior to conducting the public hearing, Peter Larr recused himself regarding this matter and left the hearing room.

Chairman Klemens began by reading the public notice and opening the public hearing held in connection with the Modified Site Plan, Modified Use Permitted Subject to Additional Standards and Requirements and Wetlands Permit application.

Frank S. McCullough, Esq. (attorney for applicant) noted that the applicant has revised its application to respond to the issues raised by the Commission at its last meeting. He indicated that a wetland mitigation plan was prepared. Mr. McCullough noted that he and representatives from John Meyer Consulting (engineer for the applicant) met with the City Engineer and City Planner regarding a stormwater drainage study, which cost in excess of \$20,000. The study examined the over 100-acre watershed within which Apawamis lies and reviewed infrastructure extending from the edge of the Apawamis property to Blind Brook. That study was provided to the City Engineer for his use and reference.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 2 of 13

Beth Evans (applicant's wetlands consultant) provided an overview of the wetland mitigation plan. Ms. Evans indicated that the plan she prepared would enhance water quality and ecological functions of wetlands on the course. The mitigation for the all-purpose court would include the addition of understory trees and native plant material adjacent to the watercourse. Stockpiled materials in this location have also been removed. The plans have been revised to indicate the location/alignment of construction access to the all-purpose court.

Ms. Evans reviewed the mitigation strategy near the 13<sup>th</sup> green, which is located in Harrison. Native plant material would be provided in this location to better stabilize the upland area, filter pollutants and provide a small nesting habitat.

Near the 12<sup>th</sup> green, Ms. Evans noted that the wooded wetland would not be disturbed. The pond would be enlarged to provide a larger golf hazard and stormwater storage. As mitigation, Ms. Evans indicated that shrubs and herbaceous plant material would be provided, the existing meadow near the pond would be enhanced and the steep hill near the pond would be better stabilized with vegetation. A rock wall would be provided at the edge of the southern end of the pond to prevent encroachment by golfers.

In response to comments of the City Planner, Ms. Evans noted that cross-sections and details of the pond improvements and proposed channel have been added to the plans. The channel (which is currently piped) would be opened and include a stone wall edge as provided elsewhere on the golf course. With respect to erosion control, Ms. Evans noted that a turbidity curtain and siltation filter would be provided in the pond and silt fencing would be provided around disturbed areas.

In terms of long-term golf course maintenance of the mitigation areas, Ms. Evans noted that Apawamis currently uses Integrated Pest Management. In addition, maintenance staff will be directed to not allow grass clippings in wetland areas.

The Commission favored the proposed mitigation strategy in Harrison, but questioned whether such improvements could be required by the City in an adjacent community and whether the proposed mitigation would require a wetland permit in that community. Mr. McCullough noted that re-grading and tree removal permits have been applied for in Harrison. A letter confirming this submission was provided from Harrison to the Rye City Planner. In addition, Mr. McCullough noted that the addition of plant material near the 13<sup>th</sup> hole would not require a permit from Harrison.

The Commission presented to Mr. McCullough a letter from Nadia Bardwill Gerrity dated June 10, 2001 regarding preservation of sight-lines near the short game area. Mr. McCullough indicated that the applicant has addressed Mrs. Gerrity's concerns and reflected her comments on the site plan.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 3 of 13

There were no comments from the public.

On a motion made by Chairman Klemens, seconded by Brian Spillane and carried by the following vote:

AYES: Michael W. Klemens, Philip DeCaro, Brian Spillane, Joseph P. Cox,  
Lawrence H. Lehman, Douglas McKean

NAYS: None

RECUSE: Peter Larr

ABSENT: None

the Planning Commission took the following action:

**ACTION:** The Planning Commission adopted a Negative Declaration under SEQRA and closed the public hearing.

## **2. Rye Community Synagogue**

Chairman Klemens began the public hearing by reading the public notice and opening the public hearing held in connection with the Modified Site Plan, Modified Use Permitted Subject to Additional Standards and Requirements and Wetlands Permit application. The Chairman also noted that the proposed action involves the reconstruction of an existing structure, which is a Type II Action under SEQRA and therefore not subject to either environmental review or the requirements of the City's Coastal Zone Management Waterfront Consistency Review Law.

Mr. Jonathan Kraut, Esq. (attorney for applicant) noted that the application involves a request by Community Synagogue of Rye to construct a new nursery and religious school. As a religious use there is a presumption in favor of the applicant that the use is appropriate and that the application is entitled to deferential treatment in which it cannot be unduly delayed in the review process.

Dan Russell (architect for applicant) provided an overview of the application, noting the following about the project:

- The existing mansion would be demolished.
- The existing 16,000 square-foot mansion building would be replaced with an approximately 12,000 square-foot, 2-story educational building.
- The height of the existing building is 40 feet. The new building would be 27 feet.
- A separate caretakers residence would be provided, with screening provided.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 4 of 13

- Additional landscape would be provided along the northern and southern property lines.
- The number of parking spaces would increase from 95 to 96, however 4 of the new parking spaces would be designated for the handicap.
- The driveway in front of the building would be widened to accommodate more vehicle stacking.
- A woodchip path and small footbridge would be provided around the pond on the rear of the property.

Ann O'Connell (Ann Lane resident) inquired as to the architecture of the new building and whether it would be similar to the existing structure to be demolished. Mr. Kraut displayed a rendering of the new building and noted that the architecture would be different in that it would convey a more modern appearance.

Ann Murphy (Ann Lane resident) noted concern with the lack of screening of the building for residences abutting the northern property line. She noted that the proposed structure will be large and that there is not much space between the property line and the building to provide additional landscaping. In addition, a large beech tree on her property further limits landscaping opportunities. Mr. Russell noted that the height of the existing building would be reduced and the setback of the building would be increased from 8 to 30 feet from the northern property line, which should minimize potential visual impacts. The Commission and Mr. Kraut agreed that the applicant will work with Mrs. Murphy and other adjacent property owners to provide additional screening. The Commission also noted that additional landscaping along and enhanced fenestration of the northern building elevation is necessary to soften the visual concerns of changing the building from a residential to an institutional appearance.

Mrs. Murphy also questioned the type of fence that would be provided around the playground. Mr. Kraut noted that a chain link fence would be provided. Mrs. Murphy suggested that a more aesthetically pleasing fence be provided.

Mrs. Bobbie Lelon (Eve Lane resident) indicated that she was disappointed to see that the existing structure is to be demolished. She also inquired as to whether the parking lot would be expanded closer to the southern property line. Mr. Kraut noted that the separation of the parking from the property line would be increase in one location and decreased in another. He further noted that landscaping would provided in this location and within the parking lot. To help address these concerns he indicated that the applicant will prepare a more detailed planting plan for the Commission's review.

There were no additional comments from the Commission or public.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 5 of 13

On a motion made by Chairman Klemens, seconded by Brian Spillane and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane,  
Joseph P. Cox, Lawrence H. Lehman, Douglas McKean

NAYS: None

ABSTAIN: None

ABSENT: None

the Planning Commission took the following action:

**ACTION:** The Planning Commission closed the public hearing.

### **3. Stern Pool**

The public hearing on this matter was canceled, due to a procedural deficiency in the applicant's distribution of public notices to adjacent neighbors.

## **II. ITEMS PENDING ACTION**

### **1. Apawamis Club**

The Commission questioned the applicant regarding the proposed planting shelf in the pond near the 12<sup>th</sup> green. Ms. Evans indicated that the shelf would not require additional fill to be created.

The Commission followed-up on its previous concerns regarding the presence of fairy shrimp in the pond near the 18<sup>th</sup> green and where the sediment excavated from the pond will be located. Ms. Evans indicated that while late May and early June are not the best times to check for fairy shrimp, none were observed in the pond. It was her professional opinion that none existed. With respect to the excavated soil, Ms. Evans noted that it will be applied elsewhere on the site outside of regulated areas.

The Commission requested that the applicant discuss and possibly enhance the maintenance practices of the Club to improve its ecological sensitivity. The Commission was interested in providing the best possible stewardship of the golf course. Mr. McCullough indicated that the Club uses IPM and has an educated greens keeper who is sensitive to this issue. He agreed however, to document the Club's maintenance practices and make them conditions of the wetland permit approval.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 6 of 13

**ACTION:** The Commission concluded its discussion and requested the City Planner to prepare a resolution of approval for consideration at its July 17 meeting.

### **2. Rye Community Synagogue**

The Commission discussed the need to increase the perimeter screening of the property. Mr. Kraut indicated that he obtained the phone numbers of abutting neighbors who raised concerns in the public hearing and noted that the applicant will contact them. Mr. Kraut also committed to providing additional landscaping along the northern side of the building and enhancing the fenestration of the façade to address the visual impact concerns of abutting neighbors.

The Commission noted concern with the location and use of the proposed temporary structures. They noted that the location of the structures should be modified to comply with the City's front yard setback requirements. There was particular concern regarding the lack of the outdoor lighting and the use of the temporary classrooms for programs conducted after daylight hours. To address this concern Mr. Kraut indicated that the temporary structures would only be used for the nursery school, which operates during the day. Mr. Kraut agreed to restrict the use of the temporary structures to hours between sunrise and sunset.

There was also a concern by the Commission regarding the safe travel of children between the temporary structures and the existing synagogue. Mr. Kraut agreed to amend the plans to show a coral consisting of temporary fencing between the two structures. The plans will provide a detail of the temporary fencing, which the Commission insisted consist of substantial, sturdy materials to best protect the children.

The applicant indicated that the main entrance of the synagogue would continue to be used throughout construction. At the Commission's request, the applicant agreed to amend the plans to designate a drop-off and pick-up area in front of the temporary structures.

The Commission requested that temporary fencing be provided around the play area located near the temporary structures.

The Commission questioned the appropriateness of the elevation provided by the applicant for the caretaker's residence. Mr. Kraut indicated that the elevation was provided to conceptually show the massing of the building rather than the final design. The applicant has not determined the final design, since it has not yet selected a manufactured housing vendor. Mr. Kraut noted that final design approval of the elevation for the caretaker's residence will be from the Board of Architectural Review.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 7 of 13

Mr. Kraut indicated that the site plan would be revised to provide angled spaces throughout the entire parking lot.

The Commission discussed the proposed wetland activities and requested that the applicant retain the existing native rhododendron on the property. It was also requested that the applicant provide appropriate treatment of the area between the edge of the pond and woodchip path. In particular, appropriate edging will need to be provided to prevent the encroachment of woodchips into the pond. The Commission also requested a detail of the proposed wooden footbridge. Mr. Kraut indicated that the applicant will provide a landscape plan addressing the comments of the Commission.

**ACTION:** The Commission concluded its discussion and requested the City Planner to prepare a resolution of approval for consideration at its July 17 meeting.

### **3. Stern Pool**

There was no discussion of this matter due to a procedural deficiency in the applicant's distribution of public notices to adjacent neighbors.

### **4. 262 Purchase Street**

The Chairman began by noting the receipt of letters of opposition to the proposed application, which letters were requested to be made part of the public record.

The Commission provided an overview of its site walk of the property noting the site's relationship to adjacent uses, the character of the area, topographic conditions, traffic patterns and the site's driveway width and access.

The Commission recited, reviewed and discussed the application's compliance with each of the permit decision criteria of Section 197-10 of the City Zoning Code, noting the following (permit criteria indicated in *italic*):

- (1) *In a residence district the proposed use will serve a community need or convenience.*

The Commission was not certain as to whether the use served a community need, but suggested that the need for additional medical uses in the area was possible.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 8 of 13

- (2) *The proposed use will be appropriate in the proposed location and will have no material adverse effect on existing or prospective conforming development, and the proposed site is adequate in size for the use.*

The Commission indicated that the application was not consistent with this standard given the number of area variances required, the proximity of the proposed medical uses to adjacent residential neighbors, the lack of screening to abutting neighbors and the limited developable area due to the steep terrain in the rear of the site. The Commission noted that the need for variances was not likely the result of inappropriate zoning requirements, but rather the applicant attempting to use the property at too great an intensity.

In response to these concerns Mr. Joseph L. Latwin, Esq. (attorney for applicant) noted that the requested variances are minor and result in a more desirable site development than a code-compliant site plan. He represented that the front yard setback variance was minor and only somewhat closer to the street than other buildings in the area; and the side yard variances would not result in a setback any less than what exists presently for the existing building on the property. The parking setback variance was minor and would not adversely impact adjacent properties.

Mr. Latwin also represented that a nearly code-compliant plan was prepared for the Commission's consideration. This plan, he suggested, required only a parking setback variance, but would result in undesirable disturbance to the hillside in the rear of the property. The Commission questioned whether such a plan would be approved given the extent of steep slope disturbance.

The City Planner questioned why the applicant has not considered using the property for one rather than the proposed two doctors. He noted that such a reduction would likely reduce the number of variances, the need for a larger building addition, reduce parking demands and vehicle trip generation and other adverse impacts of the project. Mr. Latwin's response was that such a reduction would make the project economically infeasible.

- (3) *In cases where conversion is proposed of a structure designed and built originally for other uses, the structure will be adaptable.*

It was the consensus of the Commission that the project was not consistent with this standard since the proposed building would not comply with the fire-rating requirements of the New York State Building Code and as such, the building was unsuitable for conversion from its existing residential use to a commercial operation. The Commission further noted that compliance with the Code might be achieved, but would likely result in a building design and exterior façade that is undesirable and



## Rye City Planning Commission Minutes (Cont.)

June 19, 2001

Page 9 of 13

incompatible with the neighborhood. Mr. Latwin indicated that the project architect has been in contact with New York State and that the applicant will attempt to seek a variance from the fire-rating requirements of the Building Code.

- (4) *The proposed use will be provided with adequate off-street parking to meet its needs, properly screened from adjoining residential uses, and entrance and exit drives are to be laid out to minimize traffic hazards and nuisance.*

The Commission indicated that the application was not consistent with this standard. The proposed 12-foot width of the driveway was insufficient to accommodate two-way vehicle travel patterns. In addition, the use of the driveway would be shared with an adjacent residential use. This configuration would not provide acceptable screening from adjacent properties and result in undesirable traffic hazards.

- (5) *The potential generation of traffic will be within the reasonable capacity of the existing or planned streets and highways providing access to the site.*

The Commission noted that adjacent roadways have adequate capacity to accommodate the additional traffic from the proposed medical uses. There was however, a concern regarding the amount of on-street parking in the area. Mr. Latwin noted that on-street parking is permitted in the area and that a recent parking study conducted by an application across the street indicates that adequate parking is available.

- (6) *There are available adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent that may be caused or created by or as a result of the use.*

The Commission indicated that the application did not meet this standard. In particular, it noted that refuse was not reasonably accessible given the driveway width and location of the refuse area in the rear of the property. Mr. Latwin responded by indicating that refuse could be pulled to the curb and that medical waste would be handled by a private carter.

The Commission suggested that the applicant revise its plan to address its concerns. Mr. Latwin indicated that the code-compliant plan could be pursued by the applicant, which would address some of the concerns of the Commission or it could pursue the proposed application and attempt to secure variances from the Board of Zoning Appeals (BZA). After considerable deliberation, it was the consensus of the Commission that the applicant could pursue, at his discretion, variances from the BZA. The Commission noted, however, that it would prepare a letter to the BZA expressing its concern with the variances. It also reminded Mr. Latwin that the mere granting of the variances would not necessarily address

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 10 of 13

the Commission's concerns regarding the application's consistency with the criteria of Section 197-10 of the Zoning Code.

### **5. Tanney**

The Commission indicated they conducted a site walk of the property.

The Commission discussed providing additional vegetation along New Street to properly treat and stabilize the existing hillside and screen the proposed building. It was suggested that a landscape architect might be helpful in addressing this concern.

The Commission required that the grade of the driveway be revised so that no portion exceeds 10 percent, which is the maximum grade permitted by the Zoning Code.

The Commission noted concern with the wall-like effect that could be created by the proposed development and the impact that could have on the character of New Street. They noted that the proposed building would be elevated above the street and would consist of three-stories on the New Street side, contributing to a canyon-like feeling as a result of other building in the neighborhood. It was recommended that the applicant prepare conceptual drawings illustrating alternative site layouts that minimize the visual impact on New Street. One configuration discussed, involved providing two facing buildings with a center travel aisle to serve as vehicle access. Mr. Marchesani (architect for applicant) noted that the building is setback roughly the same distance from New Street as the recently constructed multi-family development abutting the property to the west.

The Commission concluded its discussion by noting that providing alternatives for its consideration would be very important to its decision-making process. If this information was not provided, the Commission noted that it would consider adopting a Positive Declaration under SEQRA for the proposed action, which requires the preparation of an Environmental Impact Statement and the consideration of alternatives.

### **6. June and Ho, Inc.**

Mr. Kenny Lee (architect for applicant) indicated that the rear portion of the existing building would be removed and replaced with a new two-story structure. The front portion of the building, which consists of masonry block, would be retained and a second-story added. Mr. Lee indicated that the applicant's structural engineer examined the walls and foundation of the existing building. The Commission questioned the type of building construction classification and the structure's compliance with the New York State Building

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 11 of 13

Code. The City Planner indicated that he would confirm the Building Code concerns with the Building Inspector.

The Commission requested more information regarding the location of the roof-top vents and requested that the applicant provide grease traps within the building to the satisfaction of the Building Inspector.

The Commission debated the desired treatment for the rear portion of the property adjacent to the existing municipal car park. Some members suggested that given the visibility of the rear portion of building on Purchase Street that the plans be revised to make the rear portion of the lot more aesthetically desirable with landscaping, benches, and possible outdoor eating. Others indicated that given parking demands in the Central Business District that the space should be used for more functional purposes such as parking and refuse disposal. The Commission agreed that it would leave to the applicant the discretion as to how it would like to use the rear of the property.

The Commission requested that the applicant provide a site survey to confirm the location of all improvements in the rear of the property, including the edge of the car park.

The applicant indicated it would use a private carter with daily pick-up for its trash disposal.

**ACTION:** The Commission concluded its discussion and set a public hearing on this matter for its July 17 meeting.

### **7. Ruegger Subdivision**

Julie Cherico (attorney for applicant) briefly presented the application, which involves final subdivision plat approval for a 2-lot subdivision located on Grace Church Street.

The Commission requested a deed restriction prohibiting future subdivision of the property. The Commission noted that such a restriction was consistent with the preliminary approval and is a reasonable request to address concerns regarding the potential future development of the property. If such a restriction was not provided, the Commission would need to consider the potential future development and possibly require significant modifications to the subdivision plat.

Ms. Cherico indicated that she would confirm with her client the willingness to consent to this restriction.

**ACTION:** The Commission concluded its discussion and set a public hearing on this matter for its July 17 meeting.

## **Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 12 of 13

### **8. Minutes**

The Planning Commission reviewed the draft minutes of its May 22, 2001 meeting.

On a motion made by Brian Spillane, seconded by Joseph P. Cox and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean

NAYS: None

ABSTAIN: None

ABSENT: None

the Planning Commission took the following action:

**ACTION:** The Planning Commission adopted the minutes of its May 22, 2001 meeting subject to minor revisions.

### **III. Miscellaneous Items**

#### **1. Anticipated Absences**

None

#### **2. Informal Reviews**

None

#### **3. Other Business**

None

#### **4. Correspondence**

None

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 11:10 p.m.

**Rye City Planning Commission Minutes (Cont.)**

June 19, 2001

Page 13 of 13

Christian K. Miller, AICP  
City Planner